

The Leesburg Planning Commission met on Thursday, June 3, 2004, in the Council Chambers, 25 West Market Street, Leesburg, Virginia. Staff members present were Susan Swift, Aref Etemadi, Lee Phillips, Christopher Murphy, Mac Willingham, Nick Collonna, Megan Gedney, Nancy Kitchens, Bruce Douglas, David Fuller and Linda DeFranco.

### **CALL TO ORDER**

The meeting was called to order at 7:00pm by Chairman Vaughan. He went on to say that presently there is not a quorum, but he expects the arrival of Commissioners Hoovler and Barnes momentarily. He took a moment to thank Vice Chairman Werner for her dedicated service on the Planning Commission.

Commissioner Hoovler echoed Chairman Vaughan's statement regarding Vice Chairman Werner.

### **PLEDGE OF ALLEGIANCE AND ROLL CALL**

Present: Chairman Vaughan  
Commissioner Barnes  
Commissioner Hoovler  
Commissioner Wright  
Mayor Umstattd

Absent: Vice Chairman Werner  
Commissioner Emswiller  
Commissioner Bangert

### **ADOPTION OF THE AGENDA**

Commissioner Hoovler moved to adopt the agenda as presented:

Commissioner Wright asked that TLSE 2003-0004, Wastewater Treatment Plant Expansion be moved up on the agenda to precede Subdivision and Land Development Code Amendments

Commissioner Hoovler modified his motion to adopt the agenda as amended.

Motion: Hoovler  
Second: Barnes  
Carried: 4-0

### **APPROVAL OF MINUTES**

None

**PREVIEW CASES**

**Nextel Wireless Tower – TLSE 2004-0017; TLCP 2004-0004 Special Exception/ Commission Permit – 220 Fort Evans Road** – Christopher Murphy, Senior Planner (Agenda Item 6)

Chairman Vaughan expressed concern that the Planning Commission had been inadvertently handling preview cases incorrectly for some time and asked the Commission for a consensus on amending this process. He said that there would be no presentation by the applicant during the preview session. This has raised some concern about the applicant's right to disapprove the staff review. He suggested that there be no presentation from either staff or applicant. The Commission would read the review and address any questions or comments to the staff person. If there are no questions, then there would be no presentation.

Commissioner Hoovler said that he supported this proposal. He felt that allowing staff to present and not hearing the applicant could lead to complications along the way.

Mayor Umstattd feels that one of the public benefits is that they could listen to the Commissioners questions and base their questions on that information during the public hearing.

Commissioner Wright felt that the preview gave one more opportunity for the public to hear what is going on. He did not feel that what was being proposed would be a problem.

Commissioner Barnes agreed.

Chairman Vaughan asked that the Commissioners make any statements or ask any questions regarding the preview on the Nextel Wireless Tower.

Commissioner Barnes had no questions.

Commissioner Wright had three questions: Why does this tower have to be in this location? How many similar towers are within the town? What is the range of coverage of this facility?

Christopher Murphy did not have responses to these questions since the preview stage is just the initial application report. This information will be provided at the public hearing.

Chairman Vaughan asked that the Washington Post Article regarding Cell Phone frequencies be sent to the appropriate people. Mr. Murphy said that he had emailed the article to the applicant and expects they will have a response prepared for the public hearing.

Mayor Umstattd asked that the precise location be identified for those people watching. Mr. Murphy explained that this would be behind the Petco Store.

**CHAIRMAN'S STATEMENT**

None

**PETITIONERS**

Jack King of 614 Stribling in Leesburg addressed the Commission regarding the change in the Bylaws as they pertain to cluster development. He said that if staff needs to comply with the State Code then it must, however, change has to be made everywhere. Keep the public input in place as part of the process. Realize when the tipping point has been reached, when all resources have been exhausted by the citizens. He went on to say that he opposes rezoning Meadowbrook to higher density.

Chairman Vaughan thanked Mr. King and said these were certainly things to think about. At this time he closed the Petitioners Session.

**PUBLIC HEARING**

None

**ZONING**

**Wastewater Treatment Plant Expansion – TLSE2003-0004. Special Exception for Plant Expansion – 1391 East Market St.** – Aref Etemadi, Deputy Director of Utilities came forward to briefly speak about this expansion. He stated that there was no comment from the public on this expansion.

Commissioner Wright asked about #8 regarding the vinyl fence. He asked if the S-2 screen was cleared on the plans. Mr. Etemadi responded that the S-2 would be in front of the fence. He said that this would be on the Russell Branch side of the property. There will also be a landscaping buffer along Battlefield Parkway. Commissioner Wright wanted to make sure that the fence would also be screened.

Commissioner Wright moved to recommend approval of TLSE2003-0004, Wastewater Treatment Plant Expansion, with the conditions as outlined in the memo dated June 17, 2004 submitted by Brian Boucher as amended to include the fencing will have the S-2 screening along Battlefield Parkway and Russell Branch Parkway.

Motion: Wright  
Second: Hoovler  
Carried: 4-0

**SUBDIVISION AND LAND DEVELOPMENT**

**Subdivision and Land Development Code Amendments** – Lee Phillips, Chief, Current Planning.

Mr. Phillips discussed the proposed amendments and went on to say that he had spoken with Mr. Donnelly, the town attorney, regarding compliance with the State Code. The Town needs to comply with the state code. Chairman Vaughan asked for a clarification of the Code. Mr. Phillips replied that if the cluster subdivision is part of your ordinance and it does not increase the density from a standard application must be administratively approved. If the subdivision application increases the density it can be put through the special exception process. Our subdivision regulation does not permit an increase in density. To keep clustering in the ordinance, we should comply with State Code and approve these administratively. This is for single family homes only and does not include townhouses, or other forms of multiple housing.

Commissioner Wright wanted verification of the administrative approval to comply with state code.

Mayor Umstatt said that the amendments should not be adopted under the current state law. She feels that they have not reviewed this amendment thoroughly enough and feels that the cluster language should be eliminated entirely until the review has been completed. While Mr. Donnelly specifically referred to single family clustering, there is nothing in the code that prohibits townhouse or apartment development as part of the clustering provision.

Commissioner Hoovler said that under Section C, § 15.2-2286 of the State Code it mentions that any change needs to be done by July 1, 2004. Lee Phillips said they either need to remove the cluster option or adopt it as amended. Mr. Hoovler asked how much work would be involved in changing this. Mr. Phillips recommended not to increase density.

Commissioner Wright asked if clustering was an option and not mandatory. He recommended that this option be removed until changes were sorted out. If it was removed would be still be in compliance with State Code?

Chairman Vaughan asked if this were removed now and brought back up after July 1 would that work? Yes

Susan Swift asked if they were actually going to remove the cluster option. The response was yes.

Commissioner Wright asked if additional information had been obtained on the number of townhomes served by an entrance and if any DCSM changes were ready. Mr. Phillips responded that Engineering would like to see this be part of DCSM revisions. Also he had spoken with Fairfax's Transportation Section and they don't go by their ADT rule because it is waived a lot. Why put in a rule just to waive it.

Susan Swift stated that they are trying to change this so that more units use an entrance.

Chairman Vaughan stated that the amendment then should limit the number of units per entrance. Mr. Phillips recommended that firm numbers not be used because average daily trips are really more important than the number of units.

Susan Swift recommended that a separate motion be made on this providing Engineering with some direction on this issue and make this pending to amending the DCSM.

Commissioner Wright asked that they hold off to make this a separate motion.

Chairman Vaughan asked Mr. Phillips to draft a motion.

### **ZONING**

**Zoning Code Amendments** – Susan Swift presented a follow up on the previous report. Comments that came in were in consensus with most of the items. Neighborhood Retail Centers had a typographical correction. Termination of Special Exception Uses – modified to the original statement of two years and no more than three years. Next, the extended family residence would be allowed only as a special exception and criteria must be met. The Child Care Center amendment relates to fencing. The fencing should be opaque, however, this might not be a good idea for security purposes so no changes are being recommended. They will be allowed as a by right in certain commercial districts, however, the 200' rule may not apply in certain instances, so 100' is being proposed. Any part of the use, parking, playground, etc. must comply to no less than 100' from a residential area. Under Street Trees, changes were designed to work in compliance with other departments, e.g. utility lines, etc. Modifying the type of tree appropriate to the location is recommended. The buffering requirements were amended to allow for berms and other types of walls used for barriers.

Commissioner Wright wanted to know if staff felt comfortable with the elimination of walls and fences in like areas. His other concern was to make sure that parking and drop off spots comply with a performance standard so that the childcare centers in residential areas do not create adverse impact.

Mayor Umstattd referred to the section on construction of walls and their material. Commissioner Hoovler asked since they were eliminating wood fencing, would vinyl also be discouraged? Ms. Swift that possibly they will be allowed for industrial use.

Chairman Vaughan readdressed the Costco walls. There is nothing currently in our code to recommend the type of wall required for certain barriers. Ms. Swift said that it was addressed under Barrier One section of the code.

On a motion by Commissioner Hoovler it was recommended that the zoning ordinance amendments be approved under ZOAM-2004-0002 as identified in the staff report dated June 17, 2004 to include corrections for Section 11.3 and Section 12.8.6(d).

Motion: Hoovler  
Second: Wright  
Carried: 4-0

### **COMPREHENSIVE PLANNING**

**Joint EAC/EDC/PC Meeting: Workshop on Public Comment Themes** – David Fuller, Chief, Comprehensive Planning

Mr. Fuller welcomed the joint commissions and the general public interested in contributing their comments to this part of the Town Plan. He set out the agenda and the purpose of this session. There will be five groups as follows: Land Use, Parks and Recreation; Cultural Resources; Demographics, Housing, Public Services & Facilities, and Urban Growth Area; Economic Development and Transportation; and finally Natural Resources. The groups will meet separately for approximately 30 minutes for group discussion and then reconvene to report their comments to all attendees. He reiterated that this is the public's plan.

Upon return from the group discussions at around 9:20pm, each group leader reported as follows: Land Use, Parks and Recreation – Megan Gedney – with regard to the theme ***Encourage more pedestrian-friendly shopping and retail variety and less “Sheetz-like” development.*** Singling out one type of development by business name was changed to reflect the words ***more in the character of Leesburg architecture.***

Cultural Resources – David Fuller reported that three changes were made Historic Resources, Theme 2 - ***Restrict building heights and architectural nature to insure surrounding integrity and character.*** Urban Design, Theme 3 – *New development should be of good architectural design and compatible with the historic character of the town and good quality construction fronted by well designed streetscapes.* Urban Design, Theme 5 – *Special attention needs to be given to public spaces-streetscapes, green areas, gateways, river corridors improving existing spaces and creating new ones.*

Demographics, Housing, Urban Growth Areas. Nancy Kitchens reported that there was general consensus on all the themes with Theme 1 under Demographics – *Leesburg needs higher wage jobs, more affordable workforce housing (especially for seniors) and related services in order to provide a more balanced community and to reduce the cost of living for all residents.*

Group 4 addressing Economic Development and Transportation had two changes as reported by Nick Colonna. Both were under Economic Development, Theme 4 to read *Expand tourism as an economic component*, and the second one, *Attract appropriate business use whose design is compatible to the town's historic character and economic vision*.

Group 5, led by Bruce Douglas had changes under Natural Resources, Theme 6 – *Develop a system to quantify/measure progress being made in achieving the town's environmental objectives* Theme 10 – *Establish a street tree program for the town*. Theme 14 will also change, but the language has not yet been determined.

Mr. Fuller then recapped the themes and some of the changes indicated. Basically he felt that there was much consensus, some disagreement but most was a question of balance. He then invited the public to speak on the results.

Katie Hamler, Council-member Elect, a member of group 1, was confused as to the purpose of all of these themes. What are the goals, what is trying to be achieved. Rather than just wordsmithing, getting a broader base input from the public and working from the top down and not the bottom up should be considered.

Mr. Fuller set out the schedule for future town plan meetings and what their topics would be,

Kevin Wright thought if a commonality from both sides of issues were agreed upon, then they could build on that commonality.

Aidan Dewey of 209 Alpine Drive thanked the Planning Department for allowing the public to participate in this process.

Chairman Vaughan again thanked all the participants of the joint meeting and reconvened the Planning Commission meeting at 9:45pm

### **COUNCIL AND REPRESENTATIVE'S REPORT**

Mayor Umstatt stated that Loudoun County Day School is looking to expand their campus. They have targeted the O'Connor tract. Apparently Loudoun County public schools are also looking at the same tract and may exercise their ability to condemn the property. The Northern Virginia Regional Commission will be meeting soon, it is comprised of 12 jurisdictions. We are asking them to support our opposition to the powerlines along the W&OD bike trail.

With regard to Bolen park, the county would like a committee comprised on councilmembers and planning commission members. Because of the proffer negotiations, it was recommended that this be councilmembers only, although the planning commission members are encouraged to meet with county planning commission members to exchange ideas.

The county park and ride has hit a brick wall. The council is not in favor of the Westpark site. Our staff thought that an agreement had been made for a site at Battlefield Parkway and the Greenway. The county has now changed its mind again and is looking at a site in or near Potomac Station.

Chairman Vaughan asked why the town favored staying at the Oaklawn site. Mayor Umstatt replied that this was a natural ideal spot and that the developer was willing to service the site with some light retail to serve the commuters. She is unclear why the County has decided to stay away from this site except that there might be a difference in the cost.

### **Zoning Code Amendments and Subdivision and Land Development Amendments.**

At this time the Commission returned to the discussion regarding Agenda Items 10 and 11B to discuss motions and vote on the Zoning Code Amendment regarding Cluster Development and the Subdivision and Land Development Amendments.

Staff handed out draft motions for consideration.

Commissioner Wright had some concerns about Sections 13.57, 13.89 and 13.90 with regard to approval of Preliminary Development Plans. He wants to make sure that staff reports include comprehensive comments about any flags that may be raised or any variances from what is contained in the DCSM.

Chairman Vaughan stated that the Commission has looked at this change for over a year and the Planning Commission has not had any concerns about the site plan review process. This will assist in facilitating the progress of the application through the review process. The Manager's Report will provide information on activities that are currently going to Council.

Susan Swift recapped that they prepared a report that reviewed all site development plans and the Commission had no changes to the plans. The change was proposed to streamline the process and to not mislead that there is a legal means to change plans over and above code requirement.

Chairman Vaughan reiterated that a legal opinion was given that there is no reason to review By Right applications

Commissioner Wright asked when a By Right application comes in and there is something that they don't like, what recourse does the Planning Commission have?

Chairman Vaughan answered that this is the purpose of the Zoning Ordinance and Subdivision and Land Development amendments. An example of this is the Catoctin Circle Center. The request was made of the developers to consider the look of the outside of the buildings to be more compatible with Leesburg architecture.

Commissioner Wright stated his concern is still if they (the Commission) don't see these applications, how will they know to fix something.

Susan Swift responded even though the staff isn't all knowing, since so many departments are involved, there are several expertises represented and involved. Staff is bringing these things forward for change. Leadership is interested in change at this time so this process is an ongoing gleaning to always keep on top of what is occurring.

Commissioner Wright said he hoped to have the visibility in real time of where the issues are and what is going on.

Mayor Umstattd said it is frustrating for a Commission member to see something going up and having no idea what the project is, because it's By Right and they have not been made aware of it.

Susan Swift said that the information is in the Manager's Report and possibly they can review these at the meetings. She said it would take one dedicated staff member to write all the reports requested.

Commissioner Wright asked if at the end of the review, is there an internal report that provides more detail than the Manager's Report.

Commissioner Hoovler asked if there are lessons learned that the staff does at the end of the process. Is there anything that can help the Commission stay on top of proposed changes that would assist in maintaining up to date ordinances?

Susan Swift responded that a report can be created that will provide more information as issues arise.

Commissioner Wright moved that the proposed amendments to the Subdivision and Land Development Regulations be forwarded to the Town Council with a recommendation of approval as cited in the draft dated June 17, 200r, with the exception of deferring any change to section 13-75©(2)((d)) pertaining to parking courts until such time that the associated changes to the Design and Construction Standards Manual can be drafted for consideration, and striking sections 13-57(f) and 13-60(e) pertaining to cluster subdivisions because the Planning Commission has concern of allowing such applications as an option without accurately defining what can be deemed a clustering of single-family dwellings.

Commissioner Wright gave his overall support of the motion with reservation regarding Sections 13-67, 13-89 and 13-90.

Motion: Wright  
Second: Hoovler  
Carried: 4-0

The second motion to remove Cluster Development from Section 9.2 of the Zoning Ordinance was then discussed

Commissioner Wright asked if there should be something to direct staff in what they do about clusters in the future, or will this be dealt with later.

Susan Swift said this could be added to the list of future proposed changes.

Commissioner Hoovler asked when the next “batch” of proposed changes will come before the Commission. Susan Swift responded that it will more than likely be in the late fall. This is a lengthy process that needs to be checked at several levels and with compliance to the codes, ordinances, DCSM, etc.

Commissioner Hoovler made the motion to direct the staff to prepare and forward to the Town Council amendments to the Zoning Ordinance removing “Cluster Development” from Section 9.2, Use Table, and other related sections.

Motion:	Hoovler
Second:	Wright
Carried:	4-0

### **STAFF AND COMMITTEE REPORTS**

Commissioner Hoovler attended the Economic Development Committee and reported that there was discussion on broadband and expanding that business base. Also the trolley system was discussed. It will basically run from the outlets to the downtown area and will be funded by the Town, state and federal funds. They talked about the business strategy matrix.

Susan Swift talked about the PC training coming up in the fall. The information will be forthcoming. Next she addressed the committee that is being formed by Centex for the Meadowbrook application. Should town staff and commission members be a part of this committee? The town attorney thought this might put that representative in an awkward position and it might be better if they attend as observers and not actual members of the committee.

Chairman Vaughan stated that the commission cannot meet outside of the official planning commission meeting and he asked that no more than 2 commission members at a time should attend any of these meetings so it is not deemed a sanctioned meeting. Commissioner Hoovler said that there should be some guidance from the council on this and that they should only attend as citizen observers.

Mayor Umstattd expressed some concern over Centex heading this committee up.

Susan Swift said she would request invitations to the meetings. Commissioner Wright asked if further guidelines were needed to make sure that commission members do not

discuss issues openly with each other during the meeting. Ms. Swift said that she would consult with the town attorney for further information on this.

Chairman Vaughan said this is a matter of interpretation. He asked that if more than two commission members show up at the meeting, that one would leave.

Susan Swift went on to report that KSI Services, Inc. submitted applications for the Village at Leesburg. It involves rezoning, town plan amendment and eight special exceptions including a hotel, drive through banks or restaurants and multi family units in the PRC district.

Commissioner Hoovler asked if the application matrix can be sent to him via email.

### **NEW BUSINESS**

Chairman Vaughan spoke about Bolen Park. There was a joint meeting with the town and county to discuss this project. They decided to establish a committee and he expressed a desire to work on this committee. He then received a request to have the town's planning commission also set up a committee. Since that time a committee of the town council was selected to work on this. He does not feel that there is a place for the planning commission to serve on this project. He will attend the meeting as an observer, but it should be noted that this meeting directly conflicts with the regularly scheduled town council meeting.

Commissioner Wright said this seems rather odd, but he does feel that the communications between the town and county are improving.. The Mayor said that the Council should offer an alternate time so that there is no conflict.

Chairman Vaughan stated that the Council is now the town body that will represent Leesburg on this committee. The commissioners may participate as citizens. He went on to say that a request to extend water and sewer extended has not come in. Susan Swift stated that Phase I showed well and septic and water and sewer for Phase II. They simply needed to request a boundary line adjustment to be granted water and sewer.

Mayor Umstattd said that there is some talk that the Board of Supervisors is considering the sale of the land. If water and sewer is extended, they could still sell the land off for development, so this should be carefully considered.

### **ADJOURNMENT**

The motion was made and seconded to adjourn at 10:55pm.

**Prepared by:**

**Approved by:**

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**Linda DeFranco, Commission Clerk**

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**Clifton Vaughan, Chairman**

